

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NIKKI POOSHS,
Plaintiff,
v.
ALTRIA GROUP, INC. *et al.*,
Defendants.

Case No. C-04-1221 PJH-JCS

**ORDER RE: PAGE/LINE
DESIGNATIONS AND OBJECTIONS
OF FACT WITNESS LINCOLN
MINTZ**

Judge: The Hon. Phyllis J. Hamilton

The Court has reviewed the Parties February 1, 2016 Joint Submission regarding page and line objections to the deposition of fact witness Lincoln Mintz taken on January 29, 2008. The Court rules as follows:

<i>Defendants' Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
<i>Lincoln Mintz, * 1/29/2008 (Vol. 1)</i> <i>*Plaintiff's Former Spouse (1962-1982)</i>		
6:16-6:25	No Objection	
15:6-15:14	No Objection	
15:23-16:1	No Objection	
32:22-34:12	Irrelevant; 403	<i>overruled</i>
35:8-35:9	Vague as to time.	<i>overruled</i>

<i>Defendants' Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
<i>Lincoln Mintz, * 1/29/2008 (Vol. 1) *Plaintiff's Former Spouse (1962-1982)</i>		
35:12-35:20	Vague as to time.	<i>overruled</i>
36:24-37:6	Lacks foundation; Vague as to time; irrelevant; 403.	<i>overruled</i>
75:3-75:5	No Objection	
75:25-76:6	No Objection	
79:7-10	No Objection	
80:20-81:19	403; hearsay; calls for speculation. Mr. Mintz does not know substance of discussion or even if it happened.	<i>overruled</i>
81:21-82:7	403; hearsay; calls for speculation. Mr. Mintz does not know substance of discussion or even if it happened.	<i>overruled</i>
82:12-83:1	Misleading; Mr. Mintz did not recall if the conversation ever actually happened with Nikki. He is talking about a conversation he had with a third party; Hearsay; Irrelevant.	<i>overruled</i>
85:17-85:18	Hearsay; irrelevant; 403	<i>overruled</i>
85:20-86:11	Hearsay; irrelevant; 403	
95:18-97:18	No Objection.	
99:9-100:4	No Objection	
101:20-103:3	No Objection	
109:4-109:7	Calls for speculation as to what someone else could do to help Nikki quit smoking	<i>sustained</i>
109:10-109:11	Calls for speculation as to what someone else could do to help Nikki quit smoking	<i>sustained</i>
113:4-113:18	No objection	
122:23-124:18	Hearsay, statement of a third party; irrelevant in that it is a regarding a disease other than Lung Cancer; Finally, it is vague as to time.	<i>overruled</i>

<i>Plaintiff's Counter Designations</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
<i>Lincoln Mintz, * 1/29/2008 (Vol. 1) *Plaintiff's Former Spouse (1962-1982)</i>		
34:20-35:1	No objection	
36:9-23	No objection	
37:16-38:2	No objection	
38:7-9	No objection	
38:11-12	No objection	
38:14-18	No objection	
39:16-40:18	No objection	
71:22-72:7	No objection	
76:7-13	Irrelevant; Unfair Prejudice	<i>overruled</i>
82:9-11 (if Court allows in Defense designation of 81:21-82:7)	No objection	
83:2-4 (if Court allows in Defense designation of 82:12-83:1)	No objection	
88:11-15	Vague	
100:5-7	No objection	
103:1-3	No objection	
103:4-13	No objection	
105:21-2	Incomplete Designation; Irrelevant; Unfair Prejudice	<i>overruled</i>
111:2-18	Irrelevant	<i>overruled</i>
111:12-112:4	Vague; Ambiguous; Irrelevant	<i>overruled</i>
112:7-12	Vague; Nonresponsive; Irrelevant	<i>overruled</i>
119:8-13	Irrelevant	<i>overruled</i>
124:19-21; 124:24-125:3; 125:5-8 (if court	Irrelevant; Unfair Prejudice; Nonresponsive	<i>overruled</i>

<i>Plaintiff's Counter Designations</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
<i>Lincoln Mintz, * 1/29/2008 (Vol. 1) *Plaintiff's Former Spouse (1962-1982)</i>		
allows 122:23-124:18)		
127:16-25	Irrelevant	<i>overruled</i>
128:2-128:16	Nonresponsive (128:2-4); Irrelevant	<i>overruled</i>
128:15-16	Irrelevant; Vague	<i>overruled</i>
128:18	Irrelevant; Vague	<i>overruled</i>
128:20-25	Irrelevant; Express Preemption	<i>overruled</i>
129:2	Irrelevant; Express Preemption	<i>overruled</i>
129:3-7	Cumulative (<i>see</i> 128:15-129:2); Irrelevant; Express Preemption	<i>overruled</i>
132:5-6	Irrelevant; Unfair Prejudice	<i>overruled</i>
132:8-21	Irrelevant; Unfair Prejudice	<i>overruled</i>
140:4-140:11	No objection	
163:15-164:1	No objection	

IT IS SO ORDERED

Dated: February 2, 2016


PHYLLIS J. HAMILTON
 United States District Judge